IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1572 OF 2006

Capt. Zubin Siddique & Ors. ... Petitioners.

V/s.

Alisha Zubin Siddique & Ors. ... Respondents.

Mr. Anoop Pandey for Mrs. Manjula & Co. the Petitioner
Mr. Q.M. Ashfaq for the Respondent No.1.
Mr. A.S. Shitole, A.P.P. for the State.

CORAM : A.S. OKA, J.
DATE : 04th SEPTEMBER, 2006.

P.C. :

1. Rule. Learned Advocate appearing for the Respondent No.1 waives service. Learned A.G.P. waives services for the Respondent No.2. Taken up for hearing forthwith.

2. This Petition under Article 227 of the Consitution of India read with Section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing a Criminal case pending before the learned Metropolitan Magistrate, 37th Court, Mumbai. The contention of the learned Advocate for the Petitioners is that the complaint was filed by the first Respondent as a result of her matrimonial dispute with the first Petitioner. He invited my attention to the consent terms filed on 8th December 2005 before the Sessions Court. He submitted that continuation of Criminal Proceedings against the Petitioners will not serve any purpose as there has been a complete settlement between the Petitioners and the first Respondent.

3. The learned Advocate appearing for the first Respondent has tendered on record affidavit of the first Respondent which is marked "X" for identification. The affidavit is taken on record.

4. Perusal of the case made out by the first Respondent obviously shows that the complaint arose out of matrimonial dispute between the first Petitioner and the first Respondent. On 8th December 2005, a Talaqnama has been executed by and between the first Petitioner and the first Respondent. The Talaqnama records the fact that there is a divorce between the said parties and all subsisting disputes between the parties have been settled. The settlement is reflected from the consent terms which were filed in the Sessions Court. The learned Advocate appearing for the Petitioners and the learned Advocate appearing for the first Respondent have stated that the consent terms have been acted upon between the parties. Perusal of the consent terms shows that there is a complete settlement between the parties on all aspects.

5. In the affidavit of the first Respondent which is filed in the Court, she has stated in paragraph Nos. 4 and 5 as under :-

> "4. I further say that the Consent Terms dated 8th December 2005 Exhibit "D" to Petition were signed by the Petitioners and myself and under clause (ix) of the said

> Consent Terms I agreed not to proceed with my Criminal Complaint vide C.R. No.87 of 2005 dated 17/02/2005 (now numbered as 122/PW/2006).
>
> 5. I say that in view of above, I have no intention to proceed with the above said Criminal Case pending before the 37th Court of the Ld. Additional Chief Metropolitan Magistratre at Esplanade, Mumbai."

6. In view of the factual position which is stated above, it will be unjust for both the parties if Criminal proceedings continue. Considering the peculier facts and circumstances of the case, this is a case where jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 will have to be exercised and the pending complaint will have to be quashed.

7. Hence, Rule is made absolute in terms of prayer clause (a).

JUDGE